

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ARIE ANN ABBOTT, AKA
ARIE ANN CARY, AKA
ARIE ANN WHITTEMORE
6203 N. Vista Avenue
Fresno, CA 93722

Registered Nurse License No. 431432

Respondent

Case No. 2012-555

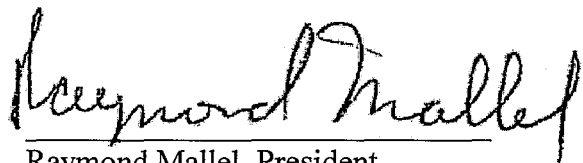
OAH No. 2012040880

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **January 16, 2013**.

IT IS SO ORDERED **December 17, 2012**.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-555

13 **ARIE ANN ABBOTT**
a.k.a. ARIE ANN CARY
a.k.a. ARIE ANN WHITEMORE
6203 N. Vista Avenue
14 Fresno, CA 93722

OAH No. 2012040880

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

17 Registered Nurse License No. 431432

18 Respondent.

19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board of
23 Registered Nursing ("Board"), Department of Consumer Affairs. She brought this action solely
24 in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of
25 the State of California, by Leslie A. Burgermyer, Deputy Attorney General.

26 2. Respondent Arie Ann Abbott, also known as Arie Ann Cary and Arie Ann Whittemore,
27 ("Respondent") is represented in this proceeding by attorney Harry M. Drandell, Esq., whose
28

1 address is: Harry M. Drandell, Esq., Law Offices of Harry M. Drandell, 1221 Van Ness Avenue,
2 Suite 450, Fresno, CA 93721.

3 3. On or about August 31, 1988, the Board issued Registered Nurse License No. 431432 to
4 Respondent. The Registered Nurse License was in full force and effect at all times relevant to the
5 charges brought in Accusation No. 2012-555 and will expire on August 31, 2014, unless renewed.

6 **JURISDICTION**

7 4. Accusation No. 2012-555 was filed before the Board and is currently pending against
8 Respondent. The Accusation and all other statutorily required documents were properly served
9 on Respondent on March 19, 2012. Respondent timely filed her Notice of Defense contesting the
10 Accusation.

11 5. A copy of Accusation No. 2012-555 is attached hereto, marked Exhibit A, and
12 incorporated herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 6. Respondent has carefully read, fully discussed with counsel, and understands the charges
15 and allegations in Accusation No. 2012-555. Respondent has also carefully read, fully discussed
16 with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

17 7. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
21 compel the attendance of witnesses and the production of documents; the right to reconsideration
22 and court review of an adverse decision; and all other rights accorded by the California
23 Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

26 **CULPABILITY**

27 9. Respondent admits the truth of each and every charge and allegation in Accusation No.
28 2012-555.

1 10. Respondent agrees that her Registered Nurse License is subject to discipline and she
2 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 **RESERVATION**

4 11. The admissions made by Respondent herein are only for the purposes of this
5 proceeding, or any other proceedings in which the Board of Registered Nursing or other
6 professional licensing agency is involved, and shall not be admissible in any other criminal or
7 civil proceeding.

8 **CONTINGENCY**

9 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
10 Respondent understands and agrees that counsel for Complainant and the staff of the Board may
11 communicate directly with the Board regarding this stipulation and settlement, without notice to
12 or participation by Respondent or her counsel. By signing the stipulation, Respondent under-
13 stands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior
14 to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
15 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
16 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
17 and the Board shall not be disqualified from further action by having considered this matter.

18 13. The parties understand and agree that facsimile copies of this Stipulated Settlement and
19 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as
20 the originals.

21 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.
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28

1 15. In consideration of the foregoing admissions and stipulations, the parties agree that the
2 Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 **IT IS HEREBY ORDERED** that Registered Nurse License No. 431432 issued to
6 Respondent Arie Ann Abbott, also known as Arie Ann Cary and Arie Ann Whittemore,
7 ("Respondent") is revoked. However, the revocation is stayed and Respondent is placed on
8 probation for three (3) years on the following terms and conditions.

9 **Severability Clause.** Each condition of probation contained herein is a separate and
10 distinct condition. If any condition of this Order, or any application thereof, is declared
11 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
12 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
13 and enforceable to the fullest extent permitted by law.

14 **1. Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
15 detailed account of any and all violations of law shall be reported by Respondent to the Board of
16 Registered Nursing ("Board") in writing within seventy-two (72) hours of occurrence. To permit
17 monitoring of compliance with this condition, Respondent shall submit completed fingerprint
18 forms and fingerprint fees within forty-five (45) days of the effective date of the decision, unless
19 previously submitted as part of the licensure application process.

20 **Criminal Court Orders:** If Respondent is under criminal court orders, including
21 probation or parole, and the order is violated, this shall be deemed a violation of these probation
22 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

23 **2. Comply with the Board's Probation Program.** Respondent shall fully comply with
24 the conditions of the Probation Program established by the Board and cooperate with represen-
25 tatives of the Board in its monitoring and investigation of the Respondent's compliance with the
26 Board's Probation Program. Respondent shall inform the Board in writing within no more than
27 fifteen (15) days of any address change and shall at all times maintain an active, current license
28 status with the Board, including during any period of suspension.

1 Upon successful completion of probation, Respondent's license shall be fully restored.

2 **3. Report in Person.** Respondent, during the period of probation, shall appear in person at
3 interviews/meetings as directed by the Board or its designated representatives.

4 **4. Residency, Practice, or Licensure Outside of State.** Periods of residency or practice
5 as a registered nurse outside of California shall not apply toward a reduction of this probation
6 time period. Respondent's probation is tolled, if and when she resides outside of California.
7 Respondent must provide written notice to the Board within fifteen (15) days of any change of
8 residency or practice outside the state, and within thirty (30) days prior to re-establishing
9 residency or returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been licensed
11 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
12 information regarding the status of each license and any changes in such license status during the
13 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
14 license during the term of probation.

15 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit or
16 cause to be submitted such written reports and/or declarations and verification of actions under
17 penalty of perjury, as required by the Board. These reports and/or declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
22 state and territory in which she has a registered nurse license.

23 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
24 engage in the practice of registered nursing in California for a minimum of twenty-four (24) hours
25 per week for six (6) consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered nursing"
27 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
28 non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of twenty-four (24) hours per week for six (6) consecutive months or as
3 determined by the Board.

4 If Respondent has not complied with this condition during the probationary term, and
5 Respondent has presented sufficient documentation of her good faith efforts to comply with this
6 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
7 extension of Respondent's probation period up to one (1) year without further hearing in order to
8 comply with this condition. During the one (1) year extension, all original conditions of
9 probation shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain prior
11 approval from the Board before commencing or continuing any employment, paid or voluntary,
12 as a registered nurse. Respondent shall cause to be submitted to the Board all performance
13 evaluations and other employment related reports as a registered nurse upon request of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after she obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
19 separated, regardless of cause, from any nursing, or other health care related employment with a
20 full explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
22 Respondent's level of supervision and/or collaboration before commencing or continuing any
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good
25 standing (no current discipline) with the Board, unless alternative methods of supervision and/or
26 collaboration (e.g., with an advanced practice nurse or physician) are approved.

27 Respondent's level of supervision and/or collaboration may include, but is not limited to the
28 following:

1 a. Maximum: The individual providing supervision and/or collaboration is present in the
2 patient care area or in any other work setting at all times.

3 b. Moderate: The individual providing supervision and/or collaboration is in the patient
4 care unit or in any other work setting at least half the hours that Respondent works.

5 c. Minimum: The individual providing supervision and/or collaboration has person-to-
6 person communication with Respondent at least twice during each shift worked.

7 d. Home Health Care: If Respondent is approved to work in the home health care setting,
8 the individual providing supervision and/or collaboration shall have person-to-person
9 communication with Respondent as required by the Board each work day. Respondent shall
10 maintain telephone or other telecommunication contact with the individual providing supervision
11 and/or collaboration as required by the Board during each work day. The individual providing
12 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits
13 to patients' homes visited by Respondent with or without Respondent present.

14 **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any
15 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
16 or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
18 registered nursing supervision and other protections for home visits have been approved by the
19 Board. Respondent shall not work in any other registered nursing occupation where home visits
20 are required.

21 Respondent shall not work in any health care setting as a supervisor of registered nurses.
22 The Board may additionally restrict Respondent from supervising licensed vocational nurses
23 and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of nursing or as an
25 instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and predetermined
27 worksite(s) and shall not work in a float capacity.

28 If Respondent is working or intends to work in excess of forty (40) hours per week, the

1 Board may request documentation to determine whether there should be restrictions on the hours
2 of work.

3 **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
4 successfully complete a course(s) relevant to the practice of registered nursing no later than six
5 (6) months prior to the end of her probationary term.

6 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
7 Respondent shall submit to the Board the original transcripts or certificates of completion for the
8 above required course(s). The Board shall return the original documents to Respondent after
9 photocopying them for its records.

10 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its
11 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
12 amount of \$2,770.00. Respondent shall be permitted to pay these costs in a payment plan
13 approved by the Board, with payments to be completed no later than three months prior to the end
14 of the probation term.

15 If Respondent has not complied with this condition during the probationary term, and
16 Respondent has presented sufficient documentation of her good faith efforts to comply with this
17 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
18 extension of Respondent's probation period up to one (1) year without further hearing in order to
19 comply with this condition. During the one (1) year extension, all original conditions of
20 probation will apply.

21 **12. Violation of Probation.** If Respondent violates the conditions of her probation, then
22 the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay
23 order and impose the stayed discipline (revocation/suspension) of Respondent's license.

24 If during the period of probation, an accusation or petition to revoke probation has been
25 filed against Respondent's license or the Attorney General's Office has been requested to prepare
26 an accusation or petition to revoke probation against Respondent's license, the probationary
27 period shall automatically be extended and shall not expire until the accusation or petition has
28 been acted upon by the Board.

1 **13. License Surrender.** During Respondent's term of probation, if she ceases practicing
2 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
3 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
4 Respondent's request and to exercise its discretion whether to grant the request, or to take any
5 other action deemed appropriate and reasonable under the circumstances, without further hearing.
6 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
7 subject to the conditions of probation.

8 Surrender of Respondent's license shall be considered a disciplinary action and shall
9 become a part of Respondent's license history with the Board. A registered nurse whose license
10 has been surrendered may petition the Board for reinstatement no sooner than the following
11 minimum periods from the effective date of the disciplinary decision:

12 a. Two (2) years for reinstatement of a license that was surrendered for any reason
13 other than a mental or physical illness; or

14 b. One (1) year for a license surrendered for a mental or physical illness.

15 **14. Physical Examination.** Within forty-five (45) days of the effective date of this
16 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
17 physician assistant, who is approved by the Board before the assessment is performed, submit an
18 assessment of the Respondent's physical condition and capability to perform the duties of a
19 registered nurse including a determination as set forth below in Condition 16, "Rule-Out
20 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
21 the Board. If medically determined, a recommended treatment program will be instituted and
22 followed by the Respondent with the physician, nurse practitioner, or physician assistant
23 providing written reports to the Board on forms provided by the Board.

24 If Respondent is determined to be unable to practice safely as a registered nurse, the
25 licensed physician, nurse practitioner, or physician assistant making this determination shall
26 immediately notify the Board and Respondent by telephone, and the Board shall request that the
27 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
28 immediately cease practice and shall not resume practice until notified by the Board. During this

1 period of suspension, Respondent shall not engage in any practice for which a license issued by
2 the Board is required until the Board has notified Respondent that a medical determination
3 permits Respondent to resume practice. This period of suspension will not apply to the reduction
4 of this probationary time period.

5 If Respondent fails to have the above assessment submitted to the Board within the forty-
6 five (45)-day requirement, Respondent shall immediately cease practice and shall not resume
7 practice until notified by the Board. This period of suspension will not apply to the reduction of
8 this probationary time period. The Board may waive or postpone this suspension only if
9 significant, documented evidence of mitigation is provided. Such evidence must establish good
10 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
11 provided. Only one such waiver or extension may be permitted.

12 **15. Mental Health Examination.** Respondent shall, within forty-five (45) days of the
13 effective date of this Decision, have a mental health examination including psychological testing
14 as appropriate to determine her capability to perform the duties of a registered nurse including a
15 determination as set forth below in Condition 16, "Rule-Out Substance Abuse Assessment." The
16 examination will be performed by a psychiatrist, psychologist or other licensed mental health
17 practitioner approved by the Board. The examining mental health practitioner will submit a
18 written report of that assessment and recommendations to the Board. All costs are the
19 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
20 result of the mental health examination will be instituted and followed by Respondent.

21 If Respondent is determined to be unable to practice safely as a registered nurse, the
22 licensed mental health care practitioner making this determination shall immediately notify the
23 Board and Respondent by telephone, and the Board shall request that the Attorney General's
24 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
25 practice and may not resume practice until notified by the Board. During this period of
26 suspension, Respondent shall not engage in any practice for which a license issued by the Board

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1 is required, until the Board has notified Respondent that a mental health determination permits
2 Respondent to resume practice. This period of suspension will not apply to the reduction of this
3 probationary time period.

4 If Respondent fails to have the above assessment submitted to the Board within the forty-
5 five (45) day requirement, Respondent shall immediately cease practice and shall not resume
6 practice until notified by the Board. This period of suspension will not apply to the reduction of
7 this probationary time period. The Board may waive or postpone this suspension only if
8 significant, documented evidence of mitigation is provided. Such evidence must establish good
9 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
10 provided. Only one such waiver or extension may be permitted.

11 **16. Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
12 and/or mental health examination determines that the Respondent is dependent upon drugs or
13 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
14 dependence in remission) that might reasonably affect the safe practice of nursing, then the
15 Respondent must further comply with the following additional terms and conditions of
16 probation:

17 **a. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**
18 Respondent, at her expense, shall successfully complete during the probationary period or shall
19 have successfully completed prior to commencement of probation a Board-approved treatment
20 and/or rehabilitation program of at least six (6) months duration. As required, reports shall be
21 submitted by the program on forms provided by the Board. If Respondent has not completed a
22 Board-approved treatment/rehabilitation program prior to commencement of probation, then
23 Respondent, within forty-five (45) days from the effective date of the decision, shall be enrolled
24 in a program. If a program is not successfully completed within the first nine months of
25 probation, the Board shall consider Respondent in violation of probation.

26 Based on Board recommendation, each week Respondent shall be required to attend at
27 least one (1), but no more than five (5) 12-step recovery meetings or equivalent (e.g., Narcotics
28 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by

1 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent
2 shall be added. Respondent shall submit dated and signed documentation confirming such
3 attendance to the Board during the entire period of probation. Respondent shall continue with the
4 recovery plan recommended by the treatment and/or rehabilitation program or a licensed mental
5 health examiner and/or other ongoing recovery groups.

6 **b. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
7 completely abstain from the possession, injection or consumption by any route of all controlled
8 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
9 are ordered by a health care professional legally authorized to do so as part of documented
10 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
11 days, by the prescribing health professional, a report identifying the medication, dosage, the
12 date the medication was prescribed, the Respondent's prognosis, the date the medication will no
13 longer be required, and the effect on the recovery plan, if appropriate.

14 Respondent shall identify for the Board a single physician, nurse practitioner, or physician
15 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
16 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
17 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
18 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
19 considered addictive have been prescribed, the report shall identify a program for the time
20 limited use of any such substances.

21 The Board may require the single coordinating physician, nurse practitioner, or physician
22 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
23 medicine.

24 **c. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
25 random, biological fluid testing or a drug screening program which the Board approves. The
26 length of time and frequency will be subject to approval by the Board. Respondent is
27 responsible for keeping the Board informed of Respondent's current telephone number at all
28 times. Respondent shall also ensure that messages may be left at the telephone number when

1 she is not available and ensure that reports are submitted directly by the testing agency to the
2 Board, as directed. Any confirmed positive finding shall be reported immediately to the Board
3 by the program and Respondent shall be considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully cooperate
5 with the Board or any of its representatives, and shall, when requested, submit to such tests and
6 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
7 hypnotics, dangerous drugs, or other controlled substances.

8 If Respondent has a positive drug screen for any substance not legally authorized and not
9 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
10 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
11 practice pending the final decision on the petition to revoke probation or the accusation. This
12 period of suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or drug screening
14 program within the specified time frame, Respondent shall immediately cease practice and shall
15 not resume practice until notified by the Board. After taking into account documented evidence
16 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
17 suspend Respondent from practice pending the final decision on the petition to revoke probation
18 or the accusation. This period of suspension will not apply to the reduction of this probationary
19 time period.

20 d. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in
21 an on-going counseling program until such time as the Board releases her from this requirement
22 and only upon the recommendation of the counselor. Written progress reports from the
23 counselor will be required at various intervals.

24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Harry M. Drandell, Esq. I understand the stipulation and the effect
27 it will have on my Registered Nurse License. I enter into this Stipulated Settlement and
28

Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 9-20-12

Arie Ann Abbott
ARIE ANN ABBOTT, also known as ARIE ANN
CARY and ARIE ANN WHITEMORE
Respondent

I have read and fully discussed with Respondent Arie Ann Abbott the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9-20-12

H. Drandell
HARRY M. DRANDELL, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 9-21-2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

Leslie A. Burgermyer
LESLIE A. BURGERMYER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-555

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
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6 Telephone: (916) 324-5337
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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9 **BEFORE THE**
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
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12 In the Matter of the Accusation Against:

Case No.

2012 - 555

13 **ARIE ANN ABBOTT**
aka ARIE ANN CARY
14 **aka ARIE ANN WHITEMORE**
aka ARIE A. WHITEMORE
15 6203 N. Vista Avenue
Fresno, California 93722

ACCUSATION

16
17 Registered Nurse License No. 431432

18 Respondent.

19
20 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the Interim
23 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs,
24 ("Board").

25 2. On or about August 31, 1988, the Board issued Registered Nurse License Number
26 431432 to Arie Ann Abbott, also known as Arie Ann Cary, Arie Ann Whittemore, and Arie A.
27 Whittemore, ("Respondent"). The license was in full force and effect at all times relevant to the
28 charges brought herein and will expire on August 31, 2012, unless renewed.

1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
3 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
4 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
5 Practice Act.

6 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
7 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
8 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
9 may renew an expired license at any time within eight years after the expiration.

10 **STATUTORY PROVISIONS**

11 5. Code section 2761 states, in pertinent part:

12 "The board may take disciplinary action against a certified or licensed nurse or deny an
13 application for a certificate or license for any of the following:

14 (a) Unprofessional conduct.

15 (f) Conviction of a felony or of any offense substantially related to the qualifications,
16 functions, and duties of a registered nurse, in which event the record of the conviction shall be
17 conclusive evidence thereof."

18 **COST RECOVERY**

19 6. Code section 125.3 provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Conviction of Crimes)**

25 7. Respondent is subject to discipline under Code section 2761(f), in that she was
26 convicted of the following crimes that are substantially related to the qualifications, functions or
27 duties of a licensed registered nurse:

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1 a. On or about August 20, 2008, in the case of *People v. Arie Ann Abbott*, (Super. Ct.
2 Fresno County, Case No. M08914078), Respondent was convicted by the Court on her plea of no
3 contest of violating Penal Code section 148(a)(1) [resist, obstruct, delay of peace officer or EMT],
4 a misdemeanor.

5 (1) The underlying circumstances are: On or about March 5, 2008, Respondent
6 and her boyfriend, J.H., with whom she cohabited, were involved in a heated verbal dispute
7 concerning Respondent's problem with prescription drugs. Respondent became very upset and
8 physically grabbed their daughter H.H., eight years old, around her rib cage, squeezed and lifted
9 H.H. in the air and then slammed H.H. down on the ground; H.H. landed on her back.
10 Respondent interfered with J.H.'s attempt to contact 911 by ripping the telephone out of the wall.
11 A peace officer responded to the home. During his interview of Respondent, she repeatedly did
12 not answer the questions directly, repeated herself several times, and acted as if she was confused.
13 During Respondent's arrest, she struggled and resisted officers while attempting to place hand
14 cuffs on her. Respondent was arrested for violating Penal Code section 591 [damage/etc., power
15 lines], 273a(b) [willful child injury or child endangerment], and 148(a)(1) [resist, obstruct, delay
16 of peace officer or EMT].

17 b. On or about December 22, 2008, in the case of *People v. Arie Ann Abbott*, (Super. Ct.
18 Fresno County, Case No. F08906088), Respondent was convicted by the Court on her plea of
19 guilty of violating Penal Code section 273.5(a) [willful corporal injury to cohabitant, father of
20 child], misdemeanor.

21 (1) The underlying circumstances are: On or about September 12, 2008,
22 Respondent was involved in a physical altercation with her boyfriend, J.H., with whom she
23 cohabited. The altercation was based on J.H.'s questioning Respondent on whether she had used
24 any drugs. During the altercation, Respondent scratched J.H. with her fingernails causing marks
25 on the top of his head and his left forearm. The altercation and arguing occurred in the presence
26 of Respondent's and J.H.'s daughter, a minor, H.H., age nine years old. Respondent scratched
27 H.H. on her arm. Law enforcement responded to the scene. The officer found it difficult to
28 interview Respondent because she would partially answer his questions, then switch to a different


1 topic. Her demeanor fluctuated between calm and irate and she was inconsistent in explaining
2 her version of the incident. Respondent was observed by an unbiased witness to punch herself in
3 her face with her fist, two to three times. Respondent was arrested for violating Penal Code
4 sections 273.5(a) [willful corporal injury to a cohabitant, father of child] and 273a(a) [willful
5 harm or injury to a child].

6 **PRAYER**

7 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Registered Nursing issue a decision:

- 9 1. Revoking or suspending Registered Nurse License Number 431432, issued to Arie
10 Ann Abbott, also known as Arie Ann Cary, Arie Ann Whittemore, and Arie A. Whittemore;
11 2. Ordering Arie Ann Abbott, also known as Arie Ann Cary, Arie Ann Whittemore, and
12 Arie A. Whittemore to pay the Board of Registered Nursing the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3; and,
15 3. Taking such other and further action as deemed necessary and proper.

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17 DATED: March 19, 2012


18 for LOUISE R. BAILEY, M.ED., RN
19 Interim Executive Officer
20 Board of Registered Nursing
21 State of California
22 Complainant
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